

#7
1-2-03
RECEIVED
DEC 20 2002

BUCKET NO.: 215051US0

TECH CENTER 1600/2900

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF

NOBUNAO IKEWAKI, ET AL.

SERIAL NO: 09/986,535

FILED: NOVEMBER 9, 2001

FOR: BETA-1.3-1.6 GLUCAN
(AUREOBASIDIUM MEDIUM)

:

: EXAMINER: YOUNG, J.

:

: GROUP ART UNIT: 1623

:

ELECTION AND RESPONSE TO RESTRICTION REQUIREMENT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

In response to the Restriction Requirement mailed November 6, 2002, the Applicants hereby elect with traverse, Group I, Claims 1-15.

The Applicants traverse the Restriction Requirement, because the Office has not met its burden of establishing that the subject matter of Groups I, II and III is patentably distinct and no undue burden would be imposed in the examination of all three groups together.

Groups II and III were held to be patentably distinct, because they are not capable of use together or have different modes of operation, different functions or different effects. However, the Restriction Requirement does not provide reasoning why the methods of Groups II and III would be patentably distinct using these criteria. For instance, the Restriction Requirement does not provide an explanation of why a method of sanitation and a method of treating disease using the same compound would not be capable of use together and share the same mode of operation. Similarly, the restriction of Group I from Groups II and III is premised on the methods of Groups II and III being patentably distinct, and in view

of the similarity of the methods of Groups II and III, the Restriction Requirement does not establish that the product may be used in materially different processes.

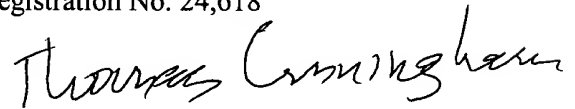
Moreover, in view of the common inventive concepts shared by all three groups, the Applicants respectfully submit that no undue burden would be imposed on the examination of all three groups together.

In the event that the restriction requirement is maintained, the Applicants respectfully request that the claims of the nonelected Groups II and III which depend from or include all the limitations of those of Group I, be rejoined upon an indication of allowability for the elected claims, see MPEP 821.04.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Norman F. Oblon
Attorney of Record
Registration No. 24,618



Thomas M. Cunningham
Registration No. 45,394



22850

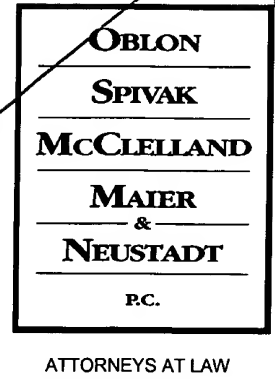
Tel.: (703) 413-3000
Fax: (703) 413-2220
NFO/TMC/cja
I:\ATTY\TMC\215051US-ELECTION.DOC



Docket No.: 215051US0

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

RECEIVED
DEC 20 2002
TECH CENTER 1600/2900



RE: Application Serial No.: 09/986,535
Applicants: Nobunao IKEWAKI, et al.
Filing Date: November 9, 2001
For: BETA-1.3-1.6 GLUCAN (AUREOBASIDIUM
MEDIUM)
Group Art Unit: 1623
Examiner: J. Young

SIR:

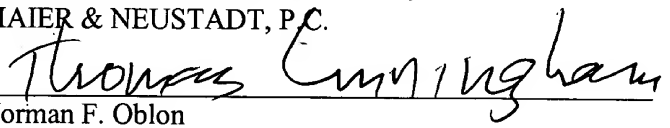
Attached hereto for filing are the following papers:

Election and Response to Restriction Requirement; Request for Extension of Time (one month)

Our check in the amount of \$110.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.


Norman F. Oblon

Registration No. 24,618



22850

(703) 413-3000 (phone)
(703) 413-2220 (fax)

Thomas M. Cunningham
Registration No. 45,394